



DIGEST OF HB 1979 (Updated March 5, 2001 5:34 PM - DI 101)

Citations Affected: IC 8-1; noncode.

Synopsis: Merchant power plants. Defines the term "merchant power plant. Provides that a merchant power plant is subject to the jurisdiction of the Indiana utility regulatory commission (IURC), except for a plant that has petitioned the IURC before March 1, 2001, for an order that the IURC decline to exercise its jurisdiction over the plant. Requires a merchant power plant to give notice of a proposed facility to property owners within one half mile of the proposed facility and to hold a field hearing to determine local support for the facility. Provides that after the field hearing, a majority of the property owners may request a hearing before the IURC. Requires the IURC to issue written findings based on testimony at the hearing. Establishes the criteria the Indiana utility regulatory commission (IURC) must consider when considering a merchant power plant application, including preferred siting locations. Provides that when considering whether to approve a plant, the IURC must obtain a recommendation from the department of natural resources (the "department") regarding the plant's (Continued next page)

Effective: Upon passage; July 1, 2001.

Fry, Young D, Liggett, Munson

January 17, 2001, read first time and referred to Committee on Commerce, Economic Development and Technology.

February 27, 2001, amended, reported — Do Pass.

March 5, 2001, read second time, amended, ordered engrossed.



planned use of and potential effect on a water resource. Requires a merchant power plant to provide to the IURC and the department an assessment, prepared by a licensed geologist or engineer, of its effect on the water resource and its users. Requires a merchant power plant that seeks: (1) approval from the IURC; or (2) alternative regulation by the IURC; to establish proof of financial responsibility in an amount determined by the IURC. Requires the IURC to issue a decision either approving or denying a merchant power plant's petition for approval or for alternative regulation not later than eighteen months after the date of the petition. Lists the duties of the merchant power plant following approval by the IURC. Provides that if a merchant power plant that has received IURC approval: (1) fails to commence construction of the plant within two years of the date of the IURC's approval; or (2) has not substantially completed construction of the plant within five years of the date of the IURC's approval; the IURC may revoke its approval of the plant. Establishes the utility worker skills and standards committee. Provides that the committee consists of the following members: (1) The utility consumer counselor, who serves as chair and an ex officio, non voting member. (2) Five members appointed by the governor and representing different types of electric utilities. (3) Five members appointed by the governor and representing various employee organizations. Requires the committee to adopt rules establishing skill and training standards for employees who operate or maintain electric utilities. Requires any proposed standards or qualifications to be approved by a simple majority of the voting committee members. Provides that any proposed standards or qualifications not agreed to by a simple majority of committee members shall be submitted to the chair for a final decision. Prohibits the chair from creating any new standards or approving any standards not proposed by the voting members. Requires the committee to meet at least annually to review of the effectiveness of the rules and consider whether any additions or amendments to the rules are necessary. Requires the committee to adopt the initial set of rules not later than January 1, 2003. Provides that the IURC may decline to exercise jurisdiction over a facility that has applied to the IURC before March 1, 2001. Specifies that the IURC has jurisdiction over a merchant power plant that has made a significant alteration in the labor used to construct or remodel the facility.





First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1979

A BILL FOR AN ACT to amend the Indiana Code concerning merchant power plants.

Be it enacted by the General Assembly of the State of Indiana:

	SECTION 1. IC 8-1-8.3 IS ADDED TO THE INDIANA CODE AS
	A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
,	1, 2001]:

Chapter 8.3. Utility Worker Skills and Standards Committee Sec. 1. As used in this chapter, "committee" refers to the utility worker skills and standards committee established by section 3 of this chapter.

- Sec. 2. As used in this chapter, "utility" means a plant or equipment within Indiana that is used for the production, transmission, delivery, or furnishing of electricity, either directly or indirectly, to the public.
- Sec. 3. There is established the utility worker skills and standards committee consisting of the following eleven (11) members:
 - (1) The utility consumer counselor, who is an ex officio member of the committee. Except as provided in section 5 of this chapter, the utility consumer counselor is a nonvoting

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1	member of the committee. The utility consumer counselor
2	shall serve as chair of the committee.
3	(2) Five (5) members appointed by the governor, with one (1)
4	member representing each of the following:
5	(A) A public utility (as defined in IC 8-1-2-1) that
6	produces, transmits, delivers, or furnishes electricity,
7	either directly or indirectly, to the public.
8	(B) A rural electric membership corporation (as defined in
9	IC 8-1-13).
10	(C) A municipally owned utility (as defined in IC 8-1-2-1)
11	that produces, transmits, delivers, or furnishes electricity,
12	either directly or indirectly, to the public.
13	(D) A public utility described in clause (A) that has
14	withdrawn from the commission's jurisdiction under any
15	provision of Indiana law, or over which the commission
16	has declined to exercise jurisdiction under any provision of
17	Indiana law.
18	(E) A nonutility owned electric generation and
19	transmission company.
20	(3) Five (5) members appointed by the governor, with one (1)
21	member representing each of the following employee
22	organizations:
23	(A) The Indiana State AFL-CIO.
24	(B) The Indiana State Building Trades Council.
25	(C) The International Brotherhood of Electrical Workers.
26	(D) The American Federation of State, County, and
27	Municipal Employees.
28	(E) The United Steelworkers of America.
29	Sec. 4. (a) A member appointed under section 3(2) or 3(3) of this
30	chapter serves for a term of four (4) years, except when a member
31	is appointed to fill a vacancy, in which case the appointment is for
32	the unexpired term only. A member appointed under section 3(2)
33	or 3(3) of this chapter serves until the member's successor is duly
34	appointed and qualified. However, a member appointed under
35	section 3(2) or 3(3) of this chapter may be reappointed to
36	successive terms. The utility consumer counselor serves on the
37	committee for the duration of the counselor's appointment under
38	IC 8-1-1.1-3.
39	(b) A member appointed under section 3(2) or 3(3) of this
40	chapter may be removed at any time by the governor for cause.
41	(c) Six (6) members of the committee constitute a quorum.

(d) The chair shall call the number of meetings necessary for the



committee to adopt the initial rules required under section 5 of this
chapter. After the committee adopts the initial rules required
under section 5 of this chapter, the committee shall meet at least
one (1) time each calendar year to review the effectiveness of the
rules and consider whether any additions or amendments to the
rules are needed. Upon the call of the chair or a simple majority of
the members of the committee, the committee shall hold any
additional meetings necessary to amend the rules.

- Sec. 5. The committee shall adopt rules under IC 4-22-2 to establish skill and training standards for employees who operate or maintain utilities. The rules adopted must specify training standards and qualifications for utility employees who operate, maintain, service, and repair any or all parts of electric generation and transmission facilities, materials, or equipment. All standards and qualifications must be approved by a vote of a simple majority of the voting members of the committee. Any proposed standards or qualifications not agreed to by a simple majority of the voting members of the committee must be submitted to the utility consumer counselor, who, as chair of the committee, shall make a final determination concerning the proposed standards or qualifications. The chair shall either approve or deny the proposed standards or qualifications based on:
 - (1) information submitted by committee members appointed under section 3(2) of this chapter; or
 - (2) information submitted by committee members appointed under section 3(3) of this chapter;

or on information submitted by a combination of committee members appointed under section 3(2) and 3(3) of this chapter. However, the chair may not create any new standards or qualifications or approve any standards or qualifications that were not proposed by members appointed under section 3(2) or 3(3) of this chapter.

SECTION 2. IC 8-1-8.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.4. Merchant Power Plants

- Sec. 1. This chapter does not apply to a merchant power plant that has filed a petition with the commission under IC 8-1-2.5 before March 1, 2001, seeking an order that the commission decline to exercise, in whole or in part, its jurisdiction over the merchant power plant.
 - Sec. 2. (a) "Merchant power plant" means a facility within



1	Indiana used for the:
2	(1) production, transmission, delivery, or furnishing of heat,
3	light, or power; and
4	(2) sale of electric energy exclusively on the wholesale market;
5	to other public utilities, energy service providers, or power
6	marketers within or outside Indiana.
7	(b) The term includes a facility that has made a significant
8	alteration to the labor used to construct or remodel the facility. For
9	purposes of this subsection, a facility makes a significant alteration
10	in the labor used to construct or remodel a facility if the person
11	uses contractors, subcontractors, or work crews that include
12	workers who are not participants in or have not completed a
13	jointly administered labor and management apprenticeship
14	program approved by the United States Department of Labor's
15	Bureau of Apprenticeship Training.
16	(c) The term does not include a facility that is owned, controlled,
17	or operated by a person that is obligated contractually to provide
18	substantially all of the wholesale power requirements of an
19	electricity supplier under a contract extending at least five (5)
20	years.
21	Sec. 3. Except as provided in section 1 of this chapter, a
22	merchant power plant is subject to the jurisdiction of the
23	commission.
24	Sec. 4. (a) The commission shall consider the following when
25	acting upon any petition by a merchant power plant under
26	IC 8-1-2.5 or IC 8-1-8.5:
27	(1) Location.
28	(2) Need.
29	(3) Financing.
30	(4) Reporting requirements.
31	(5) Impact on electric, water, and natural gas suppliers and
32	customers.
33	(6) The recommendation of the department of natural
34	resources under section 5 of this chapter.
35	(b) The commission shall issue a decision either approving or
36	denying a merchant power plant's petition under IC 8-1-2.5 or
37	IC 8-1-8.5 not later than eighteen (18) months after the date of the
38	petition.
39	Sec. 5. (a) When petitioning the commission under IC 8-1-8.5 or
40	IC 8-1-2.5, a merchant power plant must establish proof of
41	financial responsibility by filing one (1) or a combination of the



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following with the commission:

1	(1) A fully funded trust fund agreement.
2	(2) A surety bond with a standby trust fund agreement.
3	(3) A letter of credit with a standby trust fund agreement.
4	(4) An insurance policy with a standby trust fund agreement.
5	(5) Proof that the merchant power plant meets a financial test
6	established by the commission and equivalent to one (1) of the
7	items in subdivisions (1) through (4).
8	(b) The amount of financial responsibility that a merchant
9	power plant must establish under this section shall be determined
10	by the commission. In all cases, the amount must be sufficient to
11	close the merchant power plant in a manner that:
12	(1) minimizes the need for further maintenance and
13	remediation; and
14	(2) provides reasonable, foreseeable, and necessary
15	maintenance and remediation after closure for at least twenty
16	(20) years after the merchant power plant ceases operations.
17	(c) The commission may use:
18	(1) a trust fund agreement;
19	(2) a surety bond;
20	(3) a letter of credit;
21	(4) an insurance policy; or
22	(5) other proof of financial responsibility;
23	filed under this section for the closure or post-closure monitoring,
24	maintenance, or remediation of a merchant power plant approved
25	by the commission, if the merchant power plant does not comply
26	with closure or post-closure standards established by the
27	commission under subsection (d).
28	(d) The commission shall adopt rules under IC 4-22-2 to
29	establish the following:
30	(1) Standards for the proper closure and post-closure
31	monitoring, maintenance, and remediation of merchant power
32	plants.
33	(2) Criteria for how money in a trust fund agreement, a surety
34	bond, a letter of credit, an insurance policy, or other proof of
35	financial responsibility provided by a merchant power plant
36	may be released to the merchant power plant when the
37	merchant power plant meets the closure and post-closure
38	standards established under subdivision (1).
39	Sec. 6. (a) Not later than seven (7) days after filing a petition
40	under IC 8-1-2.5 or IC 8-1-8.5, a merchant power plant shall:
41	(1) send notice of the petition by United States mail to all

record owners of real property located within one-half (1/2)



1	mile of the proposed facility; and
2	(2) cause notice of the petition to be published in a newspaper
3	of general circulation in each county in which the facility or
4	proposed facility is or will be located.
5	(b) The notice of the petition shall include:
6	(1) a description of the facility or proposed facility; and
7	(2) the location, date, and time of the field hearing required by
8	section 5 of this chapter.
9	Sec. 7. Not later than thirty (30) days after filing a petition
10	under IC 8-1-2.5 or IC 8-1-8.5, a merchant power plant shall
11	conduct a field hearing at a location in a county in which the
12	facility or proposed facility is or will be located. The purpose of the
13	field hearing is to determine local support for the merchant power
14	plant.
15	Sec. 8. Not later than thirty (30) days after the field hearing
16	required by section 5 of this chapter, a majority of the persons
17	described in section 4(a)(1) of this chapter may request in writing
18	a hearing before the commission.
19	Sec. 9. (a) Not later than thirty (30) days after a hearing is
20	requested under section 6 of this chapter, the commission shall
21	conduct a hearing at a location in a county in which the facility or
22	proposed facility is or will be located. The hearing required by this
23	subsection must be held:
24	(1) before or at the same time as the hearing required under
25	IC 8-1-8.5-5(b); and
26	(2) before the commission issues a certificate of public
27	convenience and necessity under IC 8-1-8.5.
28	(b) At least ten (10) days before the scheduled hearing, notice of
29	the hearing must be served by first class mail on:
30	(1) all record owners of property located within one-half $(1/2)$
31	mile of the proposed facility; and
32	(2) the merchant power plant.
33	(c) The parties to the hearing include:
34	(1) a person entitled to notice under section 7(b)(1) of this
35	chapter; and
36	(2) the merchant power plant.
37	(d) The commission shall accept written or oral testimony from
38	any person who appears at the public hearing, but the right to call
39	and examine witnesses is reserved for the parties to the hearing.
40	(e) The commission shall make a record of the hearing and all
41	testimony received. The commission shall make the record
42	available for public inspection.



1	Sec. 10. Not later than forty-five (45) days after a hearing is
2	conducted under section 7 of this chapter, the commission shall
3	issue written findings based on the testimony presented at the
4	hearing. To the extent the commission's findings differ from
5	testimony presented at the hearing, the commission must explain
6	its findings.
7	Sec. 11. When considering whether to approve a merchant
8	power plant, the commission shall give preference to the following
9	locations for siting:
10	(1) Brownfield sites that are isolated from populated areas.
11	(2) Sites of existing or former utilities that can be replaced or
12	repowered.
13	(3) Other sites identified for power plant or heavy industrial
14	development in local land use plans before the initiation of site
15	selection for the facility.
16	Sec. 12. (a) For purposes of this section:
17	(1) "department" refers to the department of natural
18	resources; and
19	(2) "water resource" has the meaning set forth in
20	IC 14-25-7-8.
21	(b) When considering whether to approve a merchant power
22	plant, the commission shall obtain a recommendation from the
23	department regarding the merchant power plant's planned use of
24	and its potential effect on the water resource.
25	(c) To make its recommendation, the department may do the
26	following:
27	(1) Rely on the merchant power plant's water resource
28	assessment under subsection (d).
29	(2) Consult with and advise users of the water resource.
30	(3) Enter upon any land or water in Indiana to evaluate the
31	effect of the merchant power plant on the water resource.
32	(4) Conduct studies to evaluate the availability and most
33	practical method of withdrawal, development, conservation,
34	and use of the water resource.
35	(5) Require metering or other reasonable measuring of water
36	withdrawals and reporting of the measurement to the
37	department.
38	(6) Engage in any other activity necessary to carry out the
39	purposes of this section.
40	(d) A merchant power plant shall provide an assessment of its
41	effect on the water resource and its users to the commission and

the department. The assessment shall be prepared by a licensed



professional geologist (as defined in IC 25-17.6-1-6.5) or a engineer licensed under IC 25-31-1. The assessment must include the following information: (1) Sources of water supply. (2) Total amount of water to be used by the merchant power.	le
 the following information: (1) Sources of water supply. 	
4 (1) Sources of water supply.	er
	er
6 plant for each source	
7 (3) Location of wells or points of withdrawal.	
8 (4) Ability of the water resource to meet the needs of the	ie
9 merchant power plant and other users.	
0 (5) Probable effects of the merchant power plant's use an	d
1 consumption of the water resource on other users.	
2 (6) Alternative sources of water supply.	
3 (7) Conservation measures proposed by the merchant power	er
4 plant for reducing the plant's effect on the water resource.	
5 (8) Other information required by any other law, rule, or	r
6 regulation.	
7 Sec. 13. Following the approval of a petition by the commission	n,
8 the merchant power plant shall:	
9 (1) notify the commission upon becoming an affiliate of an	•
regulated Indiana utility selling electricity at retail to Indian	
consumers, at which time the commission may reassert an	y
jurisdiction it had declined under IC 8-1-2.5;	
(2) obtain prior commission approval with respect to the sale	
of any electricity to any affiliated regulated Indiana reta	
utility, or any affiliate of a regulated Indiana retail utility	7 ;
26 and	
(3) obtain prior commission approval of any transfers of)f
ownership of the facility or its assets.	•
SECTION 3. [EFFECTIVE JULY 1, 2001] (a) As used in the	
SECTION, "committee" refers to the utility worker skills an	
standards committee established by IC 8-1-8.3-3, as added by th act.	IS
(b) Notwithstanding IC 8-1-8.3-4(a), as added by this act, before	••
September 1, 2001, the governor shall make the initial	
appointments to the committee as follows:	41
(1) The members appointed under IC 8-1-8.3-3(2)(A)
IC 8-1-8.3-3(2)(B), IC 8-1-8.3-3(2)(C), IC 8-1-8.3-3(3)(A	
IC 8-1-8.3-3(3)(B), and IC 8-1-8.3-3(3)(C), all as added by th	• •
act, for a term of four (4) years.	
(2) The members appointed under IC 8-1-8.3-3(2)(D).
IC 8-1-8.3-3(2)(E), IC 8-1-8.3-3(3)(D), and IC 8-1-8.3-3(3)(E)	
all as added by this act, for a term of three (3) years.	, ,



(c) The committee shall adopt the initial rules required by	l	(c) The	committee	shall	adopt	the	initial	rules	required	by
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- 2 IC 8-1-8.3-5, as added by this act, not later than January 1, 2003.
- 3 (d) This SECTION expires July 1, 2003.
- 4 SECTION 4. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Technology, to which was referred House Bill 1979, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL TO AMEND the Indiana Code concerning merchant power plants.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1979 as introduced.)

FRY, Chair

Committee Vote: yeas 10, nays 2.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1979 be amended to read as follows:

Page 4, line 19, delete "subsection (1)(b)." and insert "section (1)(b) of this chapter.".

Page 4, line 21, delete "subsection" and insert "section".

Page 4, between lines 30 and 31, begin a new paragraph and insert:

- "Sec. 4. (a) When petitioning the commission under IC 8-1-8.5 or IC 8-1-2.5, a merchant power plant must establish proof of financial responsibility by filing one (1) or a combination of the following with the commission:
 - (1) A fully funded trust fund agreement.
 - (2) A surety bond with a standby trust fund agreement.
 - (3) A letter of credit with a standby trust fund agreement.
 - (4) An insurance policy with a standby trust fund agreement.
 - (5) Proof that the merchant power plant meets a financial test established by the commission and equivalent to one (1) of the items in subdivisions (1) through (4).
- (b) The amount of financial responsibility that a merchant power plant must establish under this section shall be determined by the commission. In all cases, the amount must be sufficient to close the merchant power plant in a manner that:
 - (1) minimizes the need for further maintenance and remediation; and
 - (2) provides reasonable, foreseeable, and necessary maintenance and remediation after closure for at least twenty (20) years after the merchant power plant ceases operations.
 - (c) The commission may use:
 - (1) a trust fund agreement;
 - (2) a surety bond;
 - (3) a letter of credit;
 - (4) an insurance policy; or
 - (5) other proof of financial responsibility;

filed under this section for the closure or post-closure monitoring, maintenance, or remediation of a merchant power plant approved by the commission, if the merchant power plant does not comply with closure or post-closure standards established by the commission under subsection (d).

- (d) The commission shall adopt rules under IC 4-22-2 to establish the following:
 - (1) Standards for the proper closure and post-closure monitoring, maintenance, and remediation of merchant power

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plants.

(2) Criteria for how money in a trust fund agreement, a surety bond, a letter of credit, an insurance policy, or other proof of financial responsibility provided by a merchant power plant may be released to the merchant power plant when the merchant power plant meets the closure and post-closure standards established under subdivision (1)."

Page 4, line 31, delete "Sec. 4." and insert "Sec. 5.".

Page 4, line 40, delete "Sec. 5." and insert "Sec. 6.".

Page 5, line 2, after "the" delete " ".

Page 5, line 18, delete "IC 8-1-8.3-3(2)(C)," and insert "IC 8-1-8.3-3(2)(C),".

(Reference is to HB 1979 as printed February 28, 2001.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1979 be amended to read as follows:

Page 4, line 19, delete "subsection (1)(b)." and insert "**section 1(b)** of this chapter.".

Page 4, line 21, delete "subsection (1)(a)" and insert "section 1(a)".

Page 4, line 21, delete "an" and insert "a".

Page 4, line 22, delete "application" and insert "petition".

Page 4, line 22, after "commission" insert "under IC 8-1-2.5 or IC 8-1-8.5".

Page 4, line 23, after "Sec. 3." insert "(a)".

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Page 4, line 24, delete "IC 8-1-8.5" and insert "IC 8-1-2.5".

Page 4, line 25, delete "IC 8-1-2.5:" and insert "IC 8-1-8.5:".

Page 4, between lines 30 and 31, begin a new paragraph and insert:

"(b) The commission shall issue a decision either approving or denying a merchant power plant's petition under IC 8-1-2.5 or IC 8-1-8.5 not later than eighteen (18) months after the date of the petition."

Page 5, line 2, delete "the commission" insert "**the commission**". Page 5, line 18, delete "IC 8-1-8.3-3(2)(C)," and insert "IC 8-1-8.3-3(2)(C),".

(Reference is to HB 1979 as printed February 28, 2001.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1979 be amended to read as follows:

Page 4, line 19, delete "subsection (1)(b)." and insert "**section 1(b)** of this chapter.".

Page 4, line 21, delete "subsection (1)(a)" and insert "section (1)(a) of this chapter".

Page 4, line 21, delete "an" and insert "a".

Page 4, line 22, delete "application" and insert "petition".

Page 4, line 24, delete "IC 8-1-8.5" and insert "IC 8-1-2.5".

Page 4, line 25, delete "IC 8-1-2.5:" and insert "IC 8-1-8.5:".

Page 4, line 31, after "4." insert "(a) Not later than seven (7) days after filing a petition under IC 8-1-2.5 or IC 8-1-8.5, a merchant power plant shall:

- (1) send notice of the petition by United States mail to all record owners of real property located within one-half (½) mile of the proposed facility; and
- (2) cause notice of the petition to be published in a newspaper of general circulation in each county in which the facility or proposed facility is or will be located.
- (b) The notice of the petition shall include:
 - (1) a description of the facility or proposed facility; and
 - (2) the location, date, and time of the field hearing required by section 5 of this chapter.
- Sec. 5. Not later than thirty (30) days after filing a petition under IC 8-1-2.5 or IC 8-1-8.5, a merchant power plant shall conduct a field hearing at a location in a county in which the facility or proposed facility is or will be located. The purpose of the field hearing is to determine local support for the merchant power plant.
- Sec. 6. Not later than thirty (30) days after the field hearing required by section 5 of this chapter, a majority of the persons described in section 4(a)(1) of this chapter may request in writing a hearing before the commission.
- Sec. 7. (a) Not later than thirty (30) days after a hearing is requested under section 6 of this chapter, the commission shall conduct a hearing at a location in a county in which the facility or proposed facility is or will be located. The hearing required by this subsection must be held:
 - (1) before or at the same time as the hearing required under IC 8-1-8.5-5(b); and
 - (2) before the commission issues a certificate of public

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convenience and necessity under IC 8-1-8.5.

- (b) At least ten (10) days before the scheduled hearing, notice of the hearing must be served by first class mail on:
 - (1) all record owners of property located within one-half (1/2) mile of the proposed facility; and
 - (2) the merchant power plant.
 - (c) The parties to the hearing include:
 - (1) a person entitled to notice under section 7(b)(1) of this chapter; and
 - (2) the merchant power plant.
- (d) The commission shall accept written or oral testimony from any person who appears at the public hearing, but the right to call and examine witnesses is reserved for the parties to the hearing.
- (e) The commission shall make a record of the hearing and all testimony received. The commission shall make the record available for public inspection.
- Sec. 8. Not later than forty-five (45) days after a hearing is conducted under section 7 of this chapter, the commission shall issue written findings based on the testimony presented at the hearing. To the extent the commission's findings differ from testimony presented at the hearing, the commission must explain its findings.

Sec. 9.".

Page 4, line 40, delete "5." and insert "10.".

Page 5, line 2, delete "the commission" and insert "the commission".

Page 5, line 18, delete "IC 8-1-8.3-3(2)(C)" and insert "IC 8-1-8.3-3(2)(C)".

(Reference is to HB 1979 as printed February 28, 2001.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1979 be amended to read as follows:

Page 4, between lines 30 and 31, begin a new line block indented and insert:

"(6) The recommendation of the department of natural resources under section 5 of this chapter.".

Page 4, line 40, after "5." insert "(a) For purposes of this section:

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- (1) "department" refers to the department of natural resources; and
- (2) "water resource" has the meaning set forth in IC 14-25-7-8.
- (b) When considering whether to approve a merchant power plant, the commission shall obtain a recommendation from the department regarding the merchant power plant's planned use of and its potential effect on the water resource.
- (c) To make its recommendation, the department may do the following:
 - (1) Rely on the merchant power plant's water resource assessment under subsection (d).
 - (2) Consult with and advise users of the water resource.
 - (3) Enter upon any land or water in Indiana to evaluate the effect of the merchant power plant on the water resource.
 - (4) Conduct studies to evaluate the availability and most practical method of withdrawal, development, conservation, and use of the water resource.
 - (5) Require metering or other reasonable measuring of water withdrawals and reporting of the measurement to the department.
 - (6) Engage in any other activity necessary to carry out the purposes of this section.
- (d) A merchant power plant shall provide an assessment of its effect on the water resource and its users to the commission and the department. The assessment shall be prepared by a licensed professional geologist (as defined in IC 25-17.6-1-6.5) or an engineer licensed under IC 25-31-1. The assessment must include the following information:
 - (1) Sources of water supply.
 - (2) Total amount of water to be used by the merchant power plant for each source
 - (3) Location of wells or points of withdrawal.
 - (4) Ability of the water resource to meet the needs of the merchant power plant and other users.
 - (5) Probable effects of the merchant power plant's use and consumption of the water resource on other users.
 - (6) Alternative sources of water supply.
 - (7) Conservation measures proposed by the merchant power plant for reducing the plant's effect on the water resource.
 - (8) Other information required by any other law, rule, or regulation.









Sec. 6.".

(Reference is to HB 1979 as printed February 28, 2001.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1979 be amended to read as follows:

Page 4, line 19, delete "subsection (1)(b)." and insert "section 1(b) of this chapter.".

Page 4, line 21, delete "subsection (1)(a)" and insert "section 1(a)".

Page 4, line 21, delete "an" and insert "a".

Page 4, line 22, delete "application" and insert "petition".

Page 4, line 22, after "commission" insert "under IC 8-1-2.5 or IC 8-1-8.5".

Page 4, line 24, delete "IC 8-1-8.5" and insert "IC 8-1-2.5".

Page 4, line 25, delete "IC 8-1-2.5:" and insert "IC 8-1-8.5:".

Page 4, line 30, after "electric" insert ", water, and natural gas".

Page 5, line 2, delete "the commission" insert "the commission".

Page 5, line 18, delete "IC 8-1-8.3-3(2)(C)," and insert "IC 8-1-8.3-3(2)(C),".

(Reference is to HB 1979 as printed February 28, 2001.)

CROOKS

HOUSE MOTION

Mr. Speaker: I move that House Bill 1979 be amended to read as follows:

Page 3, line between lines 36 and 37, begin a new paragraph and insert:

"Sec. 1. This chapter does not apply to a merchant power plant that has filed a petition with the commission under IC 8-1-2.5 before March 1, 2001, seeking an order that the commission decline to exercise, in whole or in part, its jurisdiction over the merchant power plant."

Page 3, line 37, delete "1." and insert "2.".

Page 4, line 16, delete "2. (a) A" and insert "3. Except as provided

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in section 1 of this chapter, a".

Page 4, delete lines 18 through 22.

Page 4, line 23, delete "3." and insert "4.".

Page 4, line 31, delete "4." and insert "5.".

Page 4, line 40, delete "5." and insert "6.".

(Reference is to HB 1979 as printed February 28, 2001.)

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